

Jason M. Schultz (SBN 212600)  
*jschultz@law.berkeley.edu*  
 SAMUELSON LAW, TECHNOLOGY  
 & PUBLIC POLICY CLINIC  
 UC Berkeley School of Law  
 396 Simon Hall  
 Berkeley, CA 94720-7200  
 Telephone: (510) 642-0499  
 Facsimile: (510) 643-4625

Attorneys for Plaintiff  
Electronic Frontier Foundation

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ELECTRONIC FRONTIER FOUNDATION,

Plaintiff,

VS.

DEPARTMENT OF DEFENSE, ET AL..

Defendants.

Case Nos. CV-09-05640-SI  
CV-10-05526-SI

**JOINT STIPULATION AND  
[PROPOSED] ORDER TO CONTINUE  
DATE OF CASE MANAGEMENT  
CONFERENCE**

Date: January 28, 2011  
Time: 3:00 p.m.  
Courtroom: 10, 19th Floor

1 Plaintiff Electronic Frontier Foundation (EFF) and Defendants Department of Defense, et al  
2 hereby stipulate to and respectfully request that this Court continue the date of the Case  
3 Management Conference (CMC) from January 28, 2011 to February 25, 2011, or to the Court's  
4 earliest convenience thereafter. On January 24, 2011, the Court granted Plaintiff's Motion to  
5 Consolidate Cases and ordered the parties to meet and confer and submit a joint proposal for  
6 continued briefing dates. (Dkt. 41) Given this Order, the parties believe a Case Management  
7 Conference would be better held after the parties have had a chance to agree to new briefing dates.  
8 Continuing the CMC to February 25, 2011 would allow Ms. Kimberly Herb, the government's  
9 attorney, time to meet with her clients in Consolidated Case No. 10-05526 to discuss preparing for  
10 summary judgment and would also allow the parties time to meet and confer and agree to new  
11 dates.

12 On June 10, 2010, the parties filed a stipulation and proposed order to change time for filing  
13 dispositive motions until after the CMC on July 16, 2010. The Court signed the proposed order on  
14 July 6, 2010. On July 9, 2010, the parties filed a Joint Case Management Statement and appeared  
15 for the CMC on July 16, 2010. At that time the parties informed the court that they planned to meet  
16 and confer by August 31, 2010 to determine the issues remaining in this action and to propose a  
17 timeline for the resolution of those issues. The parties met on August 30, 2010 and discussed a  
18 tentative motion schedule. On September 3, 2010, the parties filed a stipulation and proposed order  
19 to continue the CMC to allow Plaintiff time to review Department of Justice Criminal Division's  
20 final release of documents on September 30, 2010. The Court granted the motion on September 8,  
21 2010 and continued the CMC to October 26, 2010. On October 19, 2011, the parties filed a  
22 stipulation and proposed order to continue the CMC because the parties had submitted a proposed  
23 schedule for resolution of the case. The Court continued the CMC to January 14, 2011. On January  
24 7, 2011, the parties filed a stipulation and proposed order to continue the CMC to January 28, 2011  
25 to discuss case management on the same date as the hearing for Plaintiff's Motion to Consolidate.  
26 The Court continued the CMC to January 28, 2011.

27 //

28 //

The requested time modification should not adversely affect the Court's schedule because the parties are actively working to develop a schedule for resolving the case and to narrow the issues requiring the Court's attention.

DATED: January 27, 2010

Respectfully submitted,

/s/ Jennifer Lynch  
ELECTRONIC FRONTIER FOUNDATION  
Jennifer Lynch, Esq.  
Marcia Hoffman, Esq.  
454 Shotwell Street  
San Francisco, CA 94110  
Telephone: (415) 436-9333  
Facsimile: (415) 436-9993  
E-mail: jlynch@eff.org

TONY WEST  
Assistant Attorney General

JOSEPH P. RUSSONIELLO  
United States Attorney

JOHN TYLER  
Assistant Branch Director

Jason M. Schultz  
SAMUELSON LAW, TECHNOLOGY &  
PUBLIC POLICY CLINIC  
UC Berkeley School of Law  
396 Simon Hall  
Berkeley, CA 94720-7200  
Telephone: (510) 642-0499  
Facsimile: (510) 643-4625  
E-mail: jschultz@law.berkeley.edu

/s/ Kimberly L. Herb  
Kimberly L. Herb  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Ave. NW  
Washington, DC 20530  
Telephone: (202) 305-8356  
Facsimile: (202) 616-8470  
E-mail: Kimberly.L.Herb@usdoj.gov

Attorneys for Plaintiff

Attorneys for Defendants

**GENERAL ORDER NO. 45(X) CERTIFICATION**


I attest that I have obtained Kimberly Herb's concurrence in the filing of this document.

/s/ Jennifer Lynch  
Jennifer Lynch

\* \* \*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_

  
Hon. Susan Ilston  
United States District Judge